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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/263,362	03/05/1999	PAUL JOHAN NEDERVEEN	112025-0115	1718

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EXAMINER

MOLINARI, MICHAEL J

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/263,362

Applicant(s)

NEDERVEEN ET AL.

Examiner

Michael J Molinari

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 11 June 1999 was filed after the mailing date of the application on 5 March 1999. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant refers to "a respective port", "one respective port", "another respective port", "said another respective port", but does not clearly differentiate the ports from one another, therefore rendering the claim unclear. Correction is required.

4. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "said one respective port" of line 2 of the claim is not clear as a result of the lack of clarity of claim 9. Correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-9 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Whitmire et al., U.S. Patent No. 6,243,756.

8. Referring to claim 1, Whitmire et al. disclose a system for use in gathering information (statistics) for use in managing a network (see column 3, lines 7-15), said network including a plurality of network switches (network devices) configured in a stack configuration (see column 6, lines 34-38, and see Fig. 1A), said system comprising: a multiplexer (multiple port repeater, see Fig. 1A, #102) for selectively connecting, according to an arbitration scheme (backplane arbitration, see column 20, lines 61-67 and column 21, lines 1-11), said switches (multiple port repeaters, see Fig. 1A, #104, #106, #108, #110) to a single entity (management platform, see Fig. 1A, #116) for gathering said information from said switches, each of said switches being connected to said multiplexer by a respective connection (via the common backplane bus, see Fig. 1A, #112).

9. Referring to claim 2, Whitemire et al. disclose the multiplexer as a remote monitoring probe (see column 23, lines 33-53 and note that the use of RMON in the management agent, which is part of the multiplexer, makes the multiplexer a remote monitoring probe according to RMON).
10. Referring to claim 3, Whitemire et al. disclose the multiplexer as a network hub (Ethernet repeater, see column 3, lines 57-65, and see column 1, lines 61-63).
11. Referring to claim 4, Whitemire et al. disclose the multiplexer as a media access unit (see column 2, lines 25-29, and see column 3, lines 1-2 and note that the use of token ring would make the multi port repeaters media access units).
12. Referring to claim 5, Whitemire et al. disclose that the said switches are configured to generate control signals for implementing said arbitration scheme (MASTER/TARGET, see column 20, lines 61-67 and column 21, lines 1-11).
13. Referring to claim 6, Whitemire et al. disclose that the multiplexer is configured to be controlled by said signals (see column 20, lines 61-67 and column 21, lines 1-11).
14. Referring to claim 7, Whitemire et al. disclose that said information comprises switch port activity information (statistics, see column 3, lines 9-15. Also see Tables 1-4 for more detailed information about the statistics), and said switches are configured to permit user selection of particular switch port activity information to be supplied to the entity via the multiplexer (see column 4, lines 62-67 and column 5, lines 1-12).
15. Referring to claim 8, Whitemire et al. disclose program processes executed by said switches for carrying out said arbitration scheme (see column 20, lines 61-67 and column 21, lines 1-11).

16. Referring to claim 9, Whitemire et al. disclose a system comprising a plurality of network switches (network devices) configured in a stacked configuration (see column 6, lines 34-38, and see Fig. 1A), each respective switch including a respective port for receiving switch activity-related information (statistics, see column 3, lines 7-15) from other ports of the respective switch (see abstract, lines 1-7), the switches providing respective switch activity-related information to a single remote monitoring probe (see column 23, lines 33-53 and note that the use of RMON in the management agent, which is part of the multiplexer, makes the multiplexer a remote monitoring probe according to RMON), one respective port of one of said switches being connected to another respective port of another of said switches (see abstract, lines 1-7), and said another respective port being connected to said single remote monitoring probe (via the common backplane bus, see Fig. 1A, #112), the respective activity-related information of said one switch being provided to said single remote monitoring probe via a connection dedicated solely to transmission of said respective activity-related information (see column 6, lines 54-57).

17. Referring to claim 11, Whitemire et al. disclose that a third respective port of a third switch is connected to one respective port via another connection, said another connection being solely for transmission of respective activity-related information of said third switch to said one switch (see column 6, lines 54-57).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitemire et al. in view of Quoc et al. (U.S. Patent No. 6,092,214).

20. Referring to claim 10, Whitemire et al. disclose a method of determining a TARGET (slave) and MASTER (backplane arbitration, see column 20, lines 61-67 and column 21, lines 1-11), but differs from claim 10 in that it does not disclose that the TARGET/MASTER relationship results in an arbitration scheme for determining order in which the respective activity-related information of respective switches is provided to said probe. However, an arbitration scheme to determine order of delivery of management information is well known in the art. For example, Quoc et al. teach the use of an arbitration scheme to determine the order of delivery of network management data (see column 7, lines 61-67 and column 8, lines 1-67 and column 9, lines 1-3), which has the advantage of avoiding data collisions on the management bus. One skilled in the art would have recognized the advantage of using an arbitration scheme to determine the order of delivery of management data as taught by Quoc et al. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of the invention to incorporate the arbitration scheme as taught by Quoc et al. in to the invention of Whitemire et al. to achieve the advantage of avoiding data collisions on the management bus.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,335,935 to Kadambi et al. teaches a network management architecture.

U.S. Patent No. 6,327,620 to Tams et al. teaches a method of collecting management data.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Molinari whose telephone number is (703) 305-5742.

The examiner can normally be reached on Monday-Friday 8am-4:30pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9315 for After Final communications.

24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

M. J. M

Michael Joseph Molinari
August 21, 2002



HUY D. VU
SUPERVISORY PATENT EXAMINER
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